

FILED

APR X 1 2008

**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY L. POPE, }
Petitioner, } No. C 08-1502 CRB (PR)
vs. } ORDER OF DISMISSAL
D. K. SISTO, Warden, }
Respondent(s). }

Anthony L. Pope, a prisoner at California State Prison, Solano, has filed a pro se petition for a writ of habeas corpus alleging defamation of character. Specifically, Pope alleges that the attorney general's office incorrectly referred to him as a child molester in a declaration filed in support of a request for an extension of time in a pending habeas case of his in this court. Pope seeks an order requiring the attorney general to file a new declaration and damages in the amount of \$50,000.

The petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983. The Ninth Circuit has made clear that habeas jurisdiction is absent, and a § 1983 action proper, where,

1 as here, a successful challenge will not necessarily shorten the prisoner's
2 sentence. See Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003).

3 The clerk shall enter judgment in accordance with this order, terminate all
4 pending motions as moot and close the file.

5 SO ORDERED.

6 DATED: MAR 31 2008


CHARLES R. BREYER
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY L. POPE,

Plaintiff,

v.

D.K. SISTO et al,

Defendant.

Case Number: CV08-01502 CRB

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 1, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony LaShawn Pope J-18522
CSP - Solano
1-244-U
P.O. Box 4000
Vacaville, CA 95696-4000

Dated: April 1, 2008

Richard W. Wieking, Clerk



By: Tracy Lucero, Deputy Clerk